

**REMARKS**

A final Office Action issued September 25, 2002. However, the Office Action is premature and should be withdrawn. This is because Applicants filed a RCE and petition for a suspension of action for three months on August 5, 2002, thereby extending the time for filing this Preliminary Amendment to November 5, 2002. The Examiner kindly agreed to withdraw the final Office Action in a telephone communication of October 8, 2002 with the undersigned.

Review and reconsideration on the merits are requested.

Claims 1, 3 and 5-8 stand rejected under 35 U.S.C. § 102(a) as anticipated by or, in the alternative under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 5,763,085 to Atarashi et al.

With respect to the limitation that the particles form a “three-dimensional article”, the Examiner considered that any article/object inherently has three dimensions such that this limitation does not distinguish over the toner of Atarashi et al.

Additionally, the Examiner did not consider Applicants’ remarks of August 5, 2002 to be persuasive, for the reason that the record is said to lack objective evidence showing that the toner, as taught in Atarashi et al is discontinuously fixed, and that the powders are not arranged at the same distance from one another in a given direction.

Applicants traverse, and respectfully request the Examiner to reconsider in view of the amendment to claims 1 and 3 and the Declaration under 37 C.F.R. § 1.132 of Takafumi Atarashi submitted herewith.

As described at pages 2-4 of the Declaration, a magnetic printer was used to copy a magnetic toner onto paper using a magnetic brush. The uniformity of dispersion of the magnetic toner formed on the paper was then evaluated by electron microscopy. As shown in Fig. 1 (50-fold magnification) a plane surface with perfect uniformity of the firmly fixed toner was not formed. As shown in Fig. 2 (500-fold magnification), the surface of the firmly fixed toner particles was waved and there were some pores in the light gray parts (regions where the particles are firmly fixed). Thus, a consolidated material of uniformly arranged toner particles was not obtained. Fig. 3 (500-fold magnification) is a picture of the dark parts of Fig. 1 where the toner particles were present in insufficient number and therefore exposed. As shown therein, the density of toner particles differed with location and the toner particles were not arranged uniformly.

More particularly, as shown in the Declaration and accompanying micrographs, when a magnetic toner is firmly fixed (consolidated on paper) using a magnetic brush, the consolidated material of a magnetic toner appears uniform as seen by the naked eye. However, when examined with a scanning electron microscope, it is clear that such consolidated material (i.e., magnetic toner arranged with a magnetic brush) is not uniformly arranged as asserted by the Examiner and that the toner particles are not three-dimensionally arranged at the same distance from one another in a given direction.

That is, the magnetic toner particles such as those mentioned by Atarashi et al applied to paper via a magnetic brush and fixed thereon does not result in a uniform application of toner, and more importantly, does not provide a consolidated material of coated powders "wherein the

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coated powders constituting the consolidated material are three-dimensionally arranged at the same distance from one another in a given direction and are united into the consolidated material while maintaining the same distance in a given direction" as required by the rejected claims.

New claims 9-13 directed to a magnetic material, capacitor, glass, reflecting filter and polarizing filter include the basic limitation of claims 1 and 3 requiring that the coated powders constituting the consolidated material are three-dimensionally arranged at the same distance from one another in a given direction. If claims 1 and 3 are found to be allowable, then the various devices of claims 9 to 13 comprising the claimed consolidated material should also be allowed.

Withdrawal of all rejections and allowance of claims 1, 3 and 5-13 is earnestly solicited.

In the event that the Examiner believes that it may be helpful to advance the prosecution of this application, the Examiner is invited to contact the undersigned at the local Washington, D.C. telephone number indicated below.

Respectfully submitted,



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**APPENDIX**  
**VERSION WITH MARKINGS TO SHOW CHANGES MADE**

**IN THE CLAIMS:**

**The claims are amended as follows:**

1. (Four times amended) A consolidated material of coated powders in the form of a molded, three-dimensional article, said coated powders each comprising a base particle having thereon a coating film having a uniform thickness of 0.01 to 20  $\mu\text{m}$ , wherein the coated powders are mutually adhered at the coating film, the base particle comprises a glass, a metal, or a metal oxide, and the coating film is a metal film or a metal oxide film, wherein the coated powders constituting the consolidated material are three-dimensionally arranged at the same distance from one another in a given direction and are united into said consolidated material while maintaining the same distance in a given direction.

3. (Four times amended) A consolidated material of coated powders in the form of a molded, three-dimensional article, said coated powders each comprising a base particle having thereon plural coating films having a uniform thickness of 0.01 to 5  $\mu\text{m}$  per film in which at least any adjacent coating films are different in kind, wherein the coated powders are mutually adhered at the outermost coating film, the base particle comprises a glass, a metal, or a metal oxide, and the coating films are each a metal film or a metal oxide film, wherein the coated powders constituting the consolidated material are three-dimensionally arranged at the same distance from one another in a given direction and are united into said consolidated material while maintaining the same distance in a given direction.

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**Claims 9-13 are added as new claims.**